

**CITY OF SEATTLE
DETERMINATION OF NON-SIGNIFICANCE BY
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Applicant Name: Dennis Meier for the Department of Planning and Development

Location of Proposal: The PSM 85-120 and DH2 zones located within the Downtown Seattle Urban Center

SUMMARY OF PROPOSED ACTION

The proposal is to amend the City's land use regulations to correct oversights from previous amendments and provide additional flexibility to facilitate the use of incentive provisions within the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

The following approval is required:

SEPA - Environmental Conditions - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition,
or involving another agency with jurisdiction.

DESCRIPTION OF PROPOSAL

The Department of Planning and Development (DPD) is proposing minor amendments to Sections 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the current Seattle Land Use Code (Title 23) of the Seattle Municipal Code (SMC), to correct oversights from previous amendments and provide additional flexibility to facilitate the use of incentive provisions within the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

The changes to Sections 23.49.011, 23.49.013, and 23.49.014 would exempt residential use from floor area ratio (FAR) calculations and re-establish incentive provisions for non-residential uses in the DH2 zone to enable projects to gain the extra floor area permitted above the current base FAR limit. Previous code amendments inadvertently eliminated the original provisions that regulated how projects could gain extra floor area above the base FAR without providing any alternative mechanism. Section 23.49.011 on FAR would be amended to include the DH2 zone among the other Downtown zones that already exempt residential use from FAR calculations, thereby making it unnecessary for residential development to use incentives to gain extra floor

area. Sections 23.49.011 on FAR, 23.49.013 on bonus floor area for amenities and 23.49.014 on transfer of development rights would also be amended to include the DH2 zone among the other Downtown zones where non-residential uses must achieve extra floor area above the base FAR through the use of incentives established in the Downtown Code.

Section 23.49.181 on bonus floor area for affordable housing in the PSM 85-120 zone applies to a specific mapped area within the PSM 85-120 zone in the Pioneer Square Special Review District, and establishes the affordable housing bonus provisions that enable development in this mapped area to gain added height and extra residential floor area. The amendments to Section 23.49.181 are intended to accomplish the following:

- Correct an oversight in a previous amendment to this section regarding the affordable housing that is used to gain bonus residential floor area in one project but is provided at an off-site location in another project, to clarify which of the projects is subject to the time-duration requirement to maintain the affordable housing for a minimum of 50 years;
- Provide additional flexibility for a project using the affordable housing bonus by removing the 70 dwelling unit limit on the number of affordable housing units that can be located off-site and still meet both the City and County conditions for affordable housing, thereby allowing all of the affordable housing units required by the City to be provided at an off-site location; and
- Facilitate the construction of an affordable housing project in the South Downtown area by allowing more of the floor area in that project to be used to gain extra residential floor area, by development in the mapped area within the PSM 85-120 zone.

Public Comments

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments at an upcoming City Council Public Hearing.

ANALYSIS - SEPA

This proposal is an adoption of legislation and is defined as a non-project action. The initial disclosure of the potential impacts from this action was made in the environmental checklist dated August 24, 2012. The information in the checklist, a copy of the proposed text amendments, the analysis of the changes prepared by City staff, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

SHORT-TERM IMPACTS

As a non-project action and based on the results of this SEPA determination analysis, the proposed amendments are not identified to have any substantial short-term adverse impacts upon the environment. Future potential developments that might be indirectly affected by this legislation and subject to SEPA would be evaluated for their short-term environmental impacts as part of project-related reviews, and related mitigation would be identified as needed.

The proposed amendments could increase the chances that future developments would occur in the DH2 zone, due to increased capability to use bonusing and development capacity provisions. City planning models estimate that such development might be predictable on about 8% of land within the DH2 zone. If this occurred, on a site-by-site basis additional ground disturbance, vegetation clearing, could lead to increased erosion and runoff and loss of urban plant/animal habitat. However, it should be noted that whether or not the proposed amendments occur such impacts would be possible at the ground level. This analysis does not identify any net difference in the potential amount of such construction-related impacts, only a slightly greater chance that some development could occur in the future.

No potential for added adverse natural environmental effects are identified for proposed regulatory changes in the Pioneer Square zoning, due to their focus on clarifying details with respect to future locations of certain kinds of housing, and the expanded capabilities of certain permit-related arrangements to ameliorate housing impacts in the South Downtown neighborhoods.

LONG-TERM IMPACTS

The proposed amendments to the various sections of the Land Use Code in this legislation are not expected to have significant adverse impacts on any element of the natural or built environment. Most of the recommended code changes clarify existing code language and correct oversights from previous amendments, to better achieve the original intent of adopted provisions.

With respect to differences in the characteristics of future potential development with the proposed amendments, a minor net difference in built-environment impacts could occur, depending on the sizing of future development. At the same time, most of the built-environment implications in terms of land use and housing, and regarding consistency with plans and policies, would be positive in nature. These impacts are described in more detail below, along with an interpretation of long-term natural environment impact potential.

Natural Environment

Similar to and following from the conclusions for short-term impact potential, there is no identified net difference in the potential levels of adverse impacts upon the natural environment. Ground disturbances and related potential for erosion and runoff, and loss of open space and vegetation would be similar on sites in the DH2 zone, with or without implementation of the proposal.

Also, the long-term occupation by residents or employees would generate largely similar levels of potential impacts upon the natural environment. The Elliott Bay shorelines are far enough away from the affected properties that the shoreline environment would not likely be subject to direct polluting impacts with future development. At most, it could be speculated that added residential or non-residential presence on a development site might generate an additional increment of traffic or similar activity that might incrementally add to factors such as pollutant deposition onto nearby city streets. To the extent this might occur on any given site, it could be

reviewed more specifically during future reviews of development proposals. Also, it would be generally anticipated that standard practices and requirements for directing runoff on a site and for local streets' drainage would provide water quantity and/or quality control measures that would tend to avoid potential adverse impacts upon nearby resources and habitats in Elliott Bay.

No potential for added adverse natural environmental effects are identified for proposed regulatory changes in the Pioneer Square zoning, due to their focus on clarifying details with respect to future locations of certain kinds of housing, and the expanded capabilities of certain permit-related arrangements to ameliorate housing impacts in the South Downtown neighborhoods.

Built Environment

Land Use and Housing

Sections 23.49.011, 23.49.013, and 23.49.014. The amendments to these Sections would enable development in the DH2 zone to exceed the existing base FAR density limit to achieve the maximum amount of floor area the Code currently allows in this zone, which is determined by the height limit and applicable controls on bulk. The specific actions include exempting residential use from FAR calculations and extending the existing Downtown incentive provisions to the DH2 zone to allow non-residential uses to gain extra floor area above the base FAR. The height limits in this zone currently range between 55 and 85 feet, and would not change.

The proposed amendments would exempt residential use from FAR calculations and apply incentive provisions in the DH2 zone that are similar to those adopted for other Downtown zones in 2001 (Ordinance 120443). The 2001 amendments implemented Downtown neighborhood plan proposals prepared after the adoption of Seattle's Comprehensive Plan, and this was the last time the Downtown Code's incentive provisions were comprehensively reviewed and amended. Prior to the 2001 amendments, the only mechanism for gaining bonus floor area in the DH2 zone was the Harborfront Open Space bonus established in 1985. As part of the overhaul of the incentive programs in 2001, the Harborfront Open Space Bonus was determined to be outdated and was eliminated, but the Code failed to re-establish a means for achieving the maximum floor area a project was allowed in the DH2 zone. The proposed amendments are intended to address this oversight.

Under the proposal, Section 23.49.011.B.1.f would be amended to remove the DH2 zone as one of two Downtown zones where residential uses are identified as chargeable floor area. This change would allow residential use up to the maximum limit without the use of the open space bonuses that were required to gain residential floor area above the base FAR in the original provisions adopted in 1985. This action is consistent with how residential use is treated in most Downtown zones; in these zones, because residential use is not subject to FAR limits, it is unnecessary for residential projects to use incentives to gain bonus floor area above the base FAR. In 2006, in some Downtown zones, under Ordinance 122054, the height limits for residential use were substantially increased, and an affordable housing incentive program was put in place to allow developers to gain extra floor area allowed by the height increases by providing affordable housing, either through a payment or performance option. These incentive

provisions were not put in place in Downtown zones where the height limits were not increased, including the DH2 zone.

Through additional amendments to Section 23.49.011, under the proposal, non-residential uses would be treated as they currently are in other Downtown zones, with any chargeable floor area added above the base FAR required to be gained as extra floor area through the use of incentives, as established in Sections 23.49.011, 23.49.013 and 23.49.014.

The proposed amendments will not change the maximum amount of floor area that the Code currently indicates is allowed on a lot in the DH2 zone, and which previously could have been achieved through the now defunct Harborfront Open Space bonus. The amendments would, however, change how the extra floor area is gained. For non-residential development, extra floor area above the existing base FAR would be required to be gained according to current incentive provisions, which require the use of the affordable housing/childcare bonus or housing TDR, as well as other bonuses for amenities, and/or the use of other types of non-housing TDRs. While current incentive provisions emphasize affordable housing and require the use of a wider variety of bonuses features and TDR options than the sole use of the Harborfront Open Space bonus to gain extra floor area above the base FAR, some of the bonus features that could be used in the DH2 zone, such as green street improvements and parcel parks, would still result in more open space amenities in the area. The opportunities for contributing to amenities such as green street improvements on Clay, Vine, Cedar or Wall Streets, or other off-site open space amenities, is consistent with the intent of the original bonus provisions that encouraged development in this zone to increase open space amenities and enhance access to the waterfront. Furthermore, the area within and around the DH2 zone has had a significant increase in open space and improved waterfront access since the zone was established in 1985, including the Uplands Development by the Port of Seattle in the middle of the zone and the addition of the Olympic Sculpture Park just to the north.

Under the proposed amendments, because residential use would not be required to use incentives to gain additional floor area, a residential project could become a more attractive choice for new development in this zone. However, an emphasis on housing at this location supports residential growth targets for the area in the Comprehensive Plan, and is also consistent with development in abutting, high density residential zones in Belltown, as well as the current planning direction for waterfront redevelopment to the west. In any case, redevelopment opportunities in the zone are limited. Using the City's development capacity model, it is estimated that potential redevelopment sites account for less than 8 percent of the total lot area in the zone, and these sites are located in areas where the height limits, which range from 55 to 85 feet, are lowest.

Land Use Compatibility and Relationship to Plans and Policies:

The proposal would accommodate levels of development in a manner that is likely to remain compatible with other nearby land use and development patterns, and consistent with development patterns and intensity that are encouraged by current land use plans and policies. One potential housing-related effect of the proposal could be to indirectly induce future development that would include greater numbers of housing units than would otherwise occur under existing DH2 rules. This outcome would represent a positive housing impact and an

impact that is consistent with land use and housing-related policies of the City's neighborhood planning and comprehensive planning.

The land use effects of the Pioneer Square proposal would be to adjust regulatory capabilities in a manner that would help foster affordable housing development on at least one property and possibly more than one property in the South Downtown area (which would represent a positive affordable housing outcome without substantive adverse impact potential in land use or housing terms), and would allow satisfaction of requirements through off-site provision, in relation to another property that is already undergoing development. The latter aspect could mean that other housing presumably aimed at higher-income households would be provided instead at that property.

While housing policy and regulation, including what levels of housing are encouraged where, is addressed by numerous City rules, policies and neighborhood planning in South Downtown, there is little if any potential for adverse outcomes of the proposal with respect to future housing in the affected neighborhoods. The reason for this conclusion is the clear intent to require a proportional accomplishment of affordable housing as a means of fulfilling permit requirements for a particular large development (and any other future developments that could conceivably arise in the affected area).

The question of what difference it would make to accomplish affordable housing on one site versus another, and the resulting potential for differential built-environment impacts, has been reviewed. Theoretically, it could be speculated that distributing affordable housing units among many areas and within several developments is a beneficial outcome for environmental and housing diversity. But in practice in the South Downtown area, measures that will actually accomplish greater numbers of new affordable units through flexible funding and permitting arrangements are perceived to provide an outcome with greater overall housing benefits. At the same time, there have not been significantly adverse effects of providing affordable housing in concentrated newer developments within the affected neighborhoods. Rather, the overall long-term trend has been that greater numbers of newer affordable housing opportunities are adding to a gradual stabilization of the Pioneer Square and International District neighborhoods as residential environments, typically including benefits through greater age and income diversity of residents, better overall condition and healthiness of housing, more eyes on the street, and more availability of commercial, medical and non-profit services that are of use to residents. Therefore, no net adverse differences created by the proposal are identified in terms of probable housing or land use impacts.

One policy aspect to note is the advocacy of the Pioneer Square neighborhood plan for greater balance in the availability of housing for all incomes in the neighborhood, to overcome a perceived imbalance generated by a concentration of social service providers and shelter housing. The plan's expressed position is that by accomplishing more market-rate housing and more overall housing choices, the mix of residents in the neighborhood will change over time and increase the civility and livability in the neighborhood. The property primarily affected by this proposal, which is already under construction, will provide more housing for households across mid- and higher-income categories, and would thus assist in improving the balance of

housing opportunities, consistent with the neighborhood plan. In this light, the proposed amendment would be consistent with housing-related policies applicable to South Downtown neighborhoods, without substantial adverse impact potential, and would actually encourage positive land use and housing-related impacts.

Housing

Sections 23.49.011, 23.49.013, and 23.49.014. As discussed above under land use impacts, the proposal may create conditions that would make housing a more attractive development choice on the few remaining development sites in the area, which could result in the addition of more housing in the area, as opposed to more non-residential development. However, should non-residential development occur, projects that exceed the base FAR would be required to participate in the City's affordable housing incentive program, which would contribute to the supply of affordable housing either within the area or at off-site locations.

The total amount of parcel area regarded as potentially available for redevelopment within the DH2 zone is about one acre, out of a total area of just over 13 acres. Given the limited redevelopment opportunities, changes that may make residential use a more attractive redevelopment option on the few remaining sites would not have a significant adverse impact on overall housing conditions in the area. Given the City's policy objectives to encourage more housing in this area and to promote affordable housing in general, changes that promote residential use in this part of Downtown could be regarded as a positive impact upon the environment.

Section 23.49.181. The proposed amendment to this section would enable development within a specific mapped area of the PSM 85-120 zone in Pioneer Square to provide all of the affordable housing units that are required to gain bonus residential floor area on the project site at another off-site location within South Downtown. The amendments also clarify that the starting point for a 50-year affordability term attaches to the structure in which the affordable housing is provided, rather than the structure proposing to use the bonus floor area.

While the proposed change would not result in development beyond what the zoning allows at either the project site or the off-site affordable housing location, it could result in fewer affordable housing units and more market rate housing units on the project site (currently under development) in the relevant mapped area within the PSM 85-120 zone. However, given that the affordable housing provided off-site must be located in the surrounding South Downtown area, and that the number of affordable housing units would be the same, whether located on the project site or at a nearby location, there is no significant adverse impact on accomplishment of affordable housing. Furthermore, increasing the supply of market rate housing is a key goal for the Pioneer Square community as noted in their neighborhood plan, and increasing the supply of affordable housing is a key goal of the Livable South Downtown planning initiative. The proposed amendments appear likely to help achieve both of these goals, and thus be consistent with the directions of City land use and housing policies.

Regarding the 50-year term requirement for maintaining affordable housing units, not clarifying how the term requirement is applied, and which project would be subject to it, could add

uncertainty that might negatively affect decisions related to assessing project feasibility, such as financing or partnership arrangements. Also, if the requirement continues to apply to the project using the bonus floor area (e.g., fulfilling obligations through housing in off-site locations), the minimum obligatory term length for the actual affordable housing could otherwise be shortened by many years from the intended 50-year duration, since the affordable housing might be built years after the benefited project is built. The proposed changes would correct this unintended consequence.

Conclusions on Land Use and Housing related impacts:

The proposed changes fall within the scope and intent of adopted policy goals for the City of Seattle. The general effect of the changes would be to provide greater consistency between DPD practice and policy, allow more flexibility in the applications of the incentive provisions in the Downtown Code, clarify various Code provisions and correct omissions resulting from previous Code amendments to allow development that is consistent with adopted policy goals. Future development using these provisions would be subject to SEPA to the extent required, which would be able to accomplish reviews that could address potential adverse impacts of future development with appropriate project-specific mitigation measures. Therefore, no mitigation pursuant to SEPA policies is warranted.

Transportation, Utilities, Public Services and other built environment elements

Future development could be incrementally larger in the DH2 zone due to the proposal, which would generate a potential for increased future traffic generation and demands upon streets, public services and utilities. This would occur to the extent that the difference between the “base” density and the maximum density in the DH2 zone is utilized in any future development. Such net differences would be relatively small in scale due to low height and density limits in the area. In relation to public services such as schools, fire protection, police, and parks, the net added development potential for residential or non-residential uses would add slightly to the demands placed upon these public service providers and features.

Area street and infrastructure networks are generally designed to accommodate large volumes of traffic and flows by existing uses and future development at a Downtown scale. It should also be noted that only approximately 8 percent of the property in the affected area is estimated as likely to be redeveloped in the future, which would limit total overall impact potential. Future development permit reviews that could include SEPA reviews would afford the chance to identify whether any localized connection or capacity improvements would be needed to streets, traffic signals and other infrastructure, which would typically be the responsibility of the applicant to provide. Similarly, protective features that would help avoid or reduce drainage and erosion effects during and after construction are already required by applicable code requirements, so the potential for unintended adverse impacts upon nearby features such as Elliott Bay is low with respect to street and utility infrastructure effects.

No potential for added adverse natural environmental effects are identified for proposed regulatory changes in the Pioneer Square zoning, due to their focus on clarifying details with respect to future locations of certain kinds of housing, and the expanded capabilities of certain

permit-related arrangements to ameliorate housing impacts in the South Downtown neighborhoods.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

RECOMMENDED CONDITIONS – SEPA

None.

Signature: _____ (signature on file) Date: August 30, 2012
Gordon Clowers, Senior Urban Planner
Department of Planning and Development